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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,096	07/08/2003	Jim Gammon	998-932	8659

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EXAMINER

HOESLY, RYAN C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,096

Applicant(s)

GAMMON, JIM

Examiner

Ryan C. Hoesly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5, 7, and 10 rejected under 35 U.S.C. 102(b) as being anticipated by Reid (US Patent Number 5133294). Reid teaches a pet carrier that includes a base (10) that is hinged (26, 24, and 28) to rear panel (20), front panel (18), and end panels (22) respectively. Reid discloses that the pet carrier is a collapsible carrier apparatus for use in a vehicle interior having a seat that includes a seating area and a seat back that support a vehicle occupant, wherein the seating area has a generally concave, sloping contour. The base panel is attached to generally concave and sloping ribs (42) that matingly engage the generally convex, sloping area of the seat surface where the rib contours help retain the carrier on the seating area and reduces the likelihood of the carrier moving during vehicle movement. Reid also discloses hinges connecting the front and rear panels to the base panel that allow the front and rear panels to bias between a stored, generally horizontal position where the panels overlie and an operative, generally vertical position where the panels constrain motion of articles disposed on the base upper surface and the rear panel is contacting the seat back. With regards to claim 1, the introductory statement of intended use

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has been carefully considered but deemed not to impose any structure on the claims distinguishable over that shown by Reid, which is fully capable of being used as claimed. It is of a size and shape and has the necessary means to be capable of performing the function of restraining not just a pet, but also cargo.

3. With regards to claim 3, taking the definition of convex as containing all points of a line that connects any two points on the surface of the figure, the ribs disclosed by Reid are elongated, convex, and in a spaced apart relationship so that they support the base lower surface of the device on the generally concave contour of a vehicle seat and allow it to maintain a generally level orientation during vehicle movement.

4. With regards to claim 4, Reid discloses that the rear panel has a contour that matingly engages the contour of a vehicle seat back when installed within a vehicle in operative position.

5. With regards to claim 5, Reid discloses hinges that bias the front and rear panels between the two storage and operative positions with respect to the base panel.

6. With regards to claim 7, Reid discloses a front panel of a first height and a rear panel of a second different from the first height.

7. With regards to claim 10, Reid discloses a handle (60) that facilitates carrying the apparatus when the front, rear and end panels are in respective stored positions.

Claim Rejections - 35 USC § 103

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-7, 10-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yudenfreund (US Patent Number 2898146) in view of Pavia (US Patent Number 3688803). Yudenfreund teaches a foldable insert and liner for the rear of station wagons, which includes an expandable storage apparatus with a base of two base panels (12 and 13) hinged together by an intermediate area (14). Each base panel has a front panel (21 and 25), a rear panel (23 and 27), and a side panel (15 and 19) connected by hinges (16, 20, 22, 24, 26, and 28) so that the panels can move between the stored horizontal position and the operating vertical position.

10. Pavia teaches ducting that employs a plurality of elongated, convex ribs (14) in a spaced apart relationship in order to reinforce panels (11).

It would have been obvious to one skilled in the art at the time of invention to apply elongated convex ribs to the panels of the Yudenfreund device to strengthen the panels. With regards to claim 1-4 and 11-14, Yudenfreund discloses a device that is a collapsible storage apparatus that is capable of having one base panel or two base panels, separated by an intermediate portion, each with a opposite upper and lower surfaces, opposite front and rear portions, and opposite side portions. It also has front panels, rear panels, and side panels

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that extend perpendicular to the base for constraining motion of articles disposed on the base upper surface and are attached by hinges so that they are movable between a horizontal stored position and a vertical operative position. In the horizontal stored position, the panels overlie each other on the base panel and the device can be folded to be flat with a footprint as small as that of one of the base panels. While the Yudenfreund device is primarily disclosed for the rear of a station wagon, it has nearly identical structure and a similar purpose to that of the claimed device. Therefore, it would have been obvious to one skilled in the art at the time of invention to proportion the Yudenfreund device to that of a vehicle seat. The ribs taught by Pavia are nearly identical to those claimed and would be capable of not only strengthening the panels of Yudenfreund but also matingly engaging the generally concave, sloping configuration of the seating area contour in contacting relationship where the rib contours on the base lower surface would help retain the storage apparatus on the seating area and reduce the likelihood of the storage apparatus moving during vehicle movement. The Pavia ribs would also matingly engage with the contour of a seat back in most vehicles.

11. With regards to claims 5, 6, 15, and 16, Yudenfreund discloses a device that has a front panel, a rear panel, and side panels attached to a base by hinges. Yudenfreund does not disclose a certain type of hinge that is to be used, but the figures disclosed all show the panels in a horizontal position or a vertical position. Furthermore, Yudenfreund does not disclose any means for securing the panels in upright positions, such as locking tabs, so the panels are supported

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in the upright position by only the hinge. Biased hinges are well known in the art for limiting the movement of panels to conform to that of desirable positions. It would have been obvious to one skilled in the art at the time of invention to use biased hinges on the Yudenfreund device to achieve the desired vertical and horizontal positions in the operative and stored positions, respectively.

12. With regards to claims 7 and 17, Yudenfreund discloses a device with a front panel, a rear panel, and side panels. The preferred orientation of the Yudenfreund device is that where there is one front panel, one rear panel, and four side panels, however if it were adapted for a vehicle seat as stated with respect to claims 1-4 and 11-14 it would have two front panels, two rear panels, and two side panels. The Yudenfreund device has a front panel that has a first height and a rear panel has a second height different from the first it. If the Yudenfreund device was modified as stated with respect to claims 1-4 and 11-14, it would have been obvious to one skilled in the art at the time of invention to make the two front and two rear panels have different heights as the single front and rear panels did in the preferred embodiment.

13. With regards to claims 10 and 20, the Yudenfreund device folds together for storage purposes. As was shown above, adding a handle to a folded storage device to assist in transporting it to and from storage and operating locations is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the Yudenfreund device by adding a handle. If such a handle were added it would be the obvious location to add it where the

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device folded together, such as at the intermediate portion between the two base panels.

14. Claims 8, 9, 18, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yudenfreund (US Patent Number 2898146) in view of Pavia (US Patent Number 3688803) as applied to claims 1-7, 10-17, and 20 above, and further in view of Carlsson (US Pre-grant Publishing Number 20020070574).

Carlsson teaches a loading compartment, which includes a folding, hinged panel (7) and means for securing different objects. One such means for securing are projections or hooks (17) on the panel, which allow articles, such as shopping bags, to be supported in the upright position by an attaching member during transit. Another is a pocket formed on the panel for receiving articles therein. Still another is cargo netting (20) for restraining articles placed within the storage apparatus.

15. With regards to claims 8, 9, 18, 19, and 21, both Yudenfreund and Carlsson teach panels for protecting a vehicle interior when carrying cargo. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the Yudenfreund device as in the technology of the Carlsson device in the following ways: adding one or more pockets for receiving articles to one or more of the panels, adding at least one projection to at least one of the panels configured to support one or more loaded shopping bags by the handles to support the loaded shopping bags in the upright position during vehicle operation, and adding cargo netting to one or more of the panels for restraining articles placed within the storage apparatus.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Hoesly whose telephone number is (571)-272-6083. The examiner can normally be reached on Monday-Thursday 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Lee Young', with a long, sweeping horizontal line extending to the right.

LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700